

APPEAL NO. 041430
FILED AUGUST 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 20, 2004. The hearing officer determined that: (1) the compensable injury of _____, includes a right shoulder strain/sprain and rotator cuff syndrome; and (2) the respondent (claimant) had disability beginning on January 29, 2004, and continuing through the date of hearing. The appellant (carrier) appeals these determinations on sufficiency of the evidence grounds. The claimant did not file a response.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury of _____, includes a right shoulder strain/sprain and rotator cuff syndrome. This determination involved a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer did not err in determining that the claimant had disability beginning on January 29, 2004, and continuing through the date of hearing. The carrier's challenge to the hearing officer's disability determination is premised upon the success of its argument with regard to the extent of injury. Given our affirmance of the extent-of-injury determination, we likewise affirm the hearing officer's disability determination.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Gary L. Kilgore
Appeals Judge